

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16783 of 2026

Arising Out of PS. Case No.-174 Year-2025 Thana- INDUSTRIAL AREA District- Vaishali

Kanhaiya Kumar S/O Shiv Kumar Paswan R/V- Dipnagar Dhanauti,P.S-
Industrial Area,Dist- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Hemant Kumar, Advocate

For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-03-2026 Heard Mr. Hemant Kumar, learned counsel for the

petitioner and Mr. Bhanu Pratap Singh, learned APP for the

State.

2. Petitioner seeks bail who is in custody since
27.12.2025 in connection with Industrial Area P.S. Case No. 174
of 2025 for the offences punishable under Sections 317(5) and
3(5) of the BNS, 2023 and Sections 20, 22 and 8(c) of the
N.D.P.S. Act.

3. Recovery is of 275.72 grams of narcotic substance
"Kota" (Smack).

4. Learned counsel for the petitioner submits that
petitioner is innocent and he has falsely been implicated in the
present case. He further submits that it appears from the F.I.R.
as well as seizure list that nothing has been recovered from the



conscious possession of the petitioner rather 275.72 gram of narcotic substance "Kota" (Smack) has been recovered from the possession of the co-accused, namely, Ratnesh Kumar @ Bulla in question. He further submits that the petitioner was apprehended along with the co-accused. He further submits that there is non-compliance of Sections 42 and 50 of the NDPS Act.

5. Learned Additional Public Prosecutor on the other hand vehemently opposed the prayer for bail of the petitioner and submits that the recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act and apart from that the petitioner carries four criminal antecedents other than the present one.

6. The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs and Psychotropic Substance Act, 1985, Section 37 which says that before grant of bail, the Court must have reason to believe that petitioners have not committed the offence and in the event of release he would not commit similar offence.

7. The issue was considered by the Hon'ble Supreme Court in the case of **State of Kerala and Ors. Vs. Rajesh and Ors.** reported in (2020) 12 SCC, 122 as well as in the case of



Narcotic Control Bureau Vs. Mohit Aggarwal reported in **AIR 2022 SC 3444** and **Union of India vs. Ajay Kumar Singh @ Pappu** reported in **2023 SCC OnLine SC 3456** dated 28.03.2023.

8. The recovery of commercial quantity of contraband recovered would not justify that the petitioner had no knowledge of the narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

9. Hence, I am not inclined to enlarge the petitioner on bail in connection with Industrial Area P.S. Case No. 174 of 2025 pending in the Court of learned Sessions cum Special Judge NDPS Act, Vaishali.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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